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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/643,850 | 08/20/2003 | Carlos M. Gonzalez | | 6598 |

7590 02/08/2005
Carlos M. Gonzalez
3924 Tedrich Boulevard
Fairfax, VA 22031

EXAMINER

REESE, DAVID C

ART UNIT PAPER NUMBER

3677

DATE MAILED: 02/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

JE

✓

Office Action Summary

| | | |
|-----------------|---------------------|--|
| Application No. | Applicant(s) | |
| 10/643,850 | GONZALEZ, CARLOS M. | |
| Examiner | Art Unit | |
| David C. Reese | 3677 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 August 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Status of Claims

[1] Claims 1-5 are pending.

Drawings

[2] New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because the drawings should exemplify more detail and better quality. More specifically, figs. 5,6, and 7, though a general overview of the claimed invention, should still be of better quality and detail, so that paramount attributes and specifications of the claimed invention are more efficiently presented, and thus differentiated from other art. Also, as stated on the submitted petition, the drawings corresponding with the present application should be considered those in final form, not draft form. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

Specification

[3] The abstract of the disclosure is objected to because the last sentence is a run-on sentence, maintaining a length of seven lines. Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 102

[4] The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

[5] Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Keating et al., US-5,438,850.

Keating et al. teaches of a button jewelry device that is commonly used on pierced earrings attached to different mounting members.

As for Claim 1, Keating et al., teaches of a jewelry device said device is composed of a universal female connector (19 in Figs. 1-5, 7, and 9) and a plurality of removable and selectable male connectors (11 in Figs. 1-4, 30 in Fig. 5, 41 in Fig. 7, and 50 in Figs. 8 and 9); where said female connector is comprised of a side that is attached to the back of the earring (side of 19 attached to 17 in Fig. 1), a female receptacle (inside of 19 in Fig. 1) and a mechanism to lock in place a selectable and attachable male connector to said female connector (21 into 19 in Fig. 3), and where each of the said selectable male connector implements a different method of attaching an earring to an ear (20 in Figs. 1-4, and 30 in Fig. 5).

Claims in a pending application should be given their broadest reasonable interpretation. In re Pearson, 181 USPQ 641 (CCPA 1974).

As for Claim 2, Re: Claim 1, Keating et al., teaches of a jewelry device wherein the female receptacle is perpendicular to said side that attaches to the earring (the two sides of 19 attached and perpendicular to the earring 17).

As for Claim 3, Re: Claim 1, Keating et al., teaches of a jewelry device wherein the female receptacle is parallel to said side that attaches to the earring (the horizontal side of the receptacle 19, parallel to 17).

As for Claim 4, Keating et al., teaches of a jewelry device possessing a female connector (19 in Fig. 1) where said female connector is comprised of a side that is attached to the back of the earring (side of 19 attached to 17 in Fig. 1), a female receptacle (inside of 19 in Fig. 1) and a locking mechanism (19 in Fig. 3).

As for Claim 5, Keating et al., teaches of a jewelry device possessing a male connector (11 in Figs. 1-4, 30 in Fig. 5, 41 in Fig. 7, and 50 in Figs. 8 and 9) where said male connector is comprised of a coupling mechanism (21 into 19 in Fig. 3), a method of attaching an earring to an ear (18, 20 in Figs. 3 and 4, as well as 30 in Fig. 6) and a locking mechanism (21 into 19 in Fig. 3).

Conclusion

[6] The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents are cited further to show the state of the art with respect to this particular type of ear attachment; as well as their extreme relevance to the current application: Law, 4,793,155; Weller, 6,026,658; Mastrobuono, 5,048,311; Angeli, 5,337,584; Wieshuber, 3,418,826.


[7] Any inquiry concerning this communication or earlier communications from the examiner should be directed to David C. Reese whose telephone number is 703-305-4805. The examiner can normally be reached on 7:30 am - 5:00 pm M-Th, and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J.J. Swann can be reached on (703) 306-4115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3677

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sincerely,
David Reese
Examiner
Art Unit 3677



ROBERT J. SANDY
PRIMARY EXAMINER